

SETTLEMENT AGREEMENT

I. PARTIES

This Settlement Agreement (Agreement) is entered into among the United States of America, acting through the United States Department of Justice and on behalf of the United States Drug Enforcement Administration (DEA) (collectively the "United States"), and Warren L. Moody III, M.D. ("Moody") (hereafter the United States and Moody shall be referred to collectively as the "Parties").

II. PREAMBLE

As a preamble to this Agreement, the Parties agree to the following:

A. The United States contends that it has certain civil claims, as specified in Paragraph 2, below, against Moody for engaging in the following conduct between June 2006 to April 2007: ordering 2,880 dosage units of Suboxone without proper documentation; failing to maintain complete and accurate records, including an initial inventory and records of receipt and dispensation for controlled substances; and failing to maintain physical security of controlled substances (the "Covered Conduct").

B. To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of the above claims, the Parties reach a full and final settlement pursuant to the Terms and Conditions below.

III. TERMS AND CONDITIONS

1. Moody agrees to pay to the United States eighty thousand dollars (\$80,000) (the "Settlement Amount") on or before August 3, 2009. Payment shall be by wire transfer with directions to be provided by the United States Attorney's Office, District of Arizona. Moody also agrees to execute a Stipulation for Entry of Consent Judgment, attached hereto as Exhibit A. In the event Moody fails to satisfy his obligations in this Paragraph,

including payment of the full and complete Settlement Amount by August 3, 2009, the Parties agree that the United States may, without notice, (a) file a complaint against Moody in United States District Court for the Covered Conduct; (b) file the Stipulation for Entry of Consent Judgment; and (c) seek entry of the Consent Judgment (attached hereto as Exhibit B).

2. Subject to the exceptions in Paragraph 3, below, in consideration of the obligations of Moody set forth in this Agreement, conditioned upon Moody's full payment of the Settlement Amount, the United States (on behalf of itself, its officers, agents, agencies, and departments) agrees to release Moody from any civil claim the United States has or may have under 21 U.S.C. §§ 842(a)(1) and 842(a)(5), as well as 21 C.F.R. §§ 1301 and 1304, for the Covered Conduct.

3. Notwithstanding any term of this Agreement, specifically reserved and excluded from the scope and terms of this Agreement as to any entity or person (including Moody) are the following:

- a. Any civil, criminal, or administrative liability arising under Title 26, U.S. Code (Internal Revenue Code);
- b. Any administrative or criminal liability;
- c. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct; and
- d. Any liability based upon such obligations as are created by this Agreement.

4. Moody waives and shall not assert any defenses Moody may have to any criminal prosecution or administrative action relating to the Covered Conduct, which defenses

may be based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action. Nothing in this Paragraph or any other provision of this Agreement constitutes an agreement by the United States concerning the characterization of the Settlement Amount for purposes of the Internal Revenue laws, Title 26 of the United States Code.

5. Moody fully and finally releases the United States, its agencies, employees, servants, and agents from any claims (including attorney's fees, costs, and expenses of every kind and however denominated) that Moody has asserted, could have asserted, or may assert in the future against the United States, its agencies, employees, servants, and agents, related to the Covered Conduct and the United States' investigation and prosecution thereof.

6. This Agreement is intended only for the benefit of the Parties. The Parties do not release any claims against any other person or entity.

7. In the event that the United States opts to rescind this Agreement, Moody agrees not to plead, argue, or otherwise raise any defenses under the theories of statute of limitations, laches, estoppel, or similar theories, to any civil or administrative claims that (a) are filed by the United States, and (b) relate to the Covered Conduct, except to the extent these defenses were available on the Effective Date

8. Moody warrants that he has reviewed his financial situation and that he currently is solvent within the meaning of 11 U.S.C. §§ 547(b)(3) and 548(a)(1)(B)(ii)(I), and shall remain solvent following his payment to the United States of the Settlement Amount.

Further, the Parties warrant that, in evaluating whether to execute this Agreement, they (a) have intended that the mutual promises, covenants, and obligations set forth constitute a contemporaneous exchange for new value given to Moody, within the meaning of 11 U.S.C. § 547(c)(1); and (b) conclude that these mutual promises, covenants, and obligations do, in fact, constitute such a contemporaneous exchange. Further, the Parties warrant that the mutual promises, covenants, and obligations set forth herein are intended to and do, in fact, represent a reasonably equivalent exchange of value that is not intended to hinder, delay, or defraud any entity to which Moody was or became indebted, on or after the date of this transfer, all within the meaning of 11 U.S.C. § 548(a)(1).

9. If, within 91 days of the Effective Date of this Agreement or any payment made under this Agreement, Moody commences, or a third party commences, any case, proceeding, or other action under any law relating to bankruptcy, insolvency, reorganization, or relief of debtors (a) seeking to have any order for relief of Moody's debts, or seeking to adjudicate Moody as bankrupt or insolvent; or (b) seeking appointment of a receiver, trustee, custodian, or other similar official for Moody or for all or any substantial part of Moody's assets, Moody agrees as follows:

a. Moody's obligations under this Agreement may not be avoided pursuant to 11 U.S.C. §§ 547 or 548, and Moody shall not argue or otherwise take the position in any such case, proceeding, or action that: (i) Moody's obligations under this Agreement may be avoided under 11 U.S.C. §§ 547 or 548; (ii) Moody was insolvent at the time this Agreement was entered into, or became insolvent as a result of the payment made to the United States

hereunder; or (iii) the mutual promises, covenants, and obligations set forth in this Agreement do not constitute a contemporaneous exchange for new value given to Moody.

b. If Moody's obligations under this Agreement are avoided for any reason, including, but not limited to, through the exercise of a trustee's avoidance powers under the Bankruptcy Code, the United States, at its sole option, may rescind the releases in this Agreement, and bring any civil and/or administrative claim, action, or proceeding against Moody for the claims that would otherwise be covered by the releases provided in Paragraph 2, above. Moody agrees that (i) any such claims, actions, or proceedings brought by the United States are not subject to an "automatic stay" pursuant to 11 U.S.C. § 362(a) as a result of the action, case, or proceeding described in the first clause of this Paragraph, and Moody shall not argue or otherwise contend that the United States' claims, actions, or proceedings are subject to an automatic stay; (ii) Moody shall not plead, argue, or otherwise raise any defenses under the theories of statute of limitations, laches, estoppel, or similar theories, to any such civil or administrative claims, actions, or proceedings that are brought by the United States within 120 calendar days of written notification to Moody that the releases herein have been rescinded pursuant to this Paragraph, except to the extent such defenses were available on the Effective Date of the Agreement; and (iii) the United States has a valid claim against Moody for civil penalties under the Controlled Substances Act, and the United States may pursue its claim(s) in the case, action, or proceeding referenced in the first clause of this Paragraph, as well as in any other case, action, or proceeding.

c. Moody acknowledges that his agreements in this Paragraph are provided in exchange for valuable consideration provided in this Agreement.

10. Moody agrees to cooperate fully and truthfully with the United States' investigation of individuals and entities related, or connected in any manner or form, to the Covered Conduct, but otherwise not released in this Agreement. Upon reasonable notice, Moody shall encourage, and agrees not to impair, the cooperation of his entities, agents and employees, and shall use his best efforts to make available, and encourage the cooperation of former agents and employees for interviews and testimony, consistent with the rights and privileges of such individuals. Moody agrees to furnish to the United States, upon request, complete and unredacted copies of all non-privileged documents, reports, memoranda of interviews, and records in his possession, custody, or control concerning any investigation of the Covered Conduct that he has undertaken, or that has been performed by his counsel or other agent(s) or employees. A breach of this Paragraph is a material breach of the Agreement, and shall constitute grounds for rescission of the Agreement at the sole option of the United States and entitle the United States to bring any civil and/or administrative claim, action, or proceeding against Moody for the claims that would otherwise be covered by the releases provided in Paragraph 2, above.

11. Each Party to this Agreement shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

12. Moody represents that this Agreement is freely and voluntarily entered into without any degree of duress or compulsion whatsoever.

13. This Agreement is governed by the laws of the United States. The Parties agree that the exclusive jurisdiction and venue for any dispute arising between and among the Parties under this Agreement is the United States District Court for the District of Arizona.

14. This Agreement, including the attached Exhibits A and B, constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Parties.

15. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.

16. This Agreement is binding on Moody's successors, transferees, heirs, and assigns.

17. All parties consent to the United States' disclosure of this Agreement, and information about this Agreement, to the public.

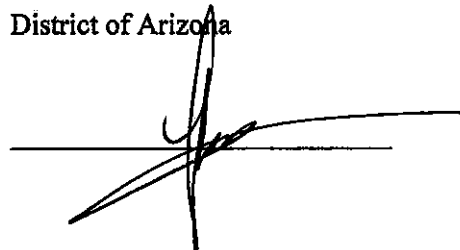
18. This Agreement is effective on the date of signature of the last signatory to the Agreement (the "Effective Date"). Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

FOR THE UNITED STATES

UNITED STATES OF AMERICA
DIANE J. HUMETEWA
United States Attorney
District of Arizona

DATED: 2-27-2009

*Settlement Agreement Between
the United States and Warren L. Moody III*

A handwritten signature in black ink, appearing to be "Diane J. Humetewa", is written over a horizontal line. The signature is stylized with a large, sweeping initial "D" and "H".

Robert K. Lu
Assistant United States Attorney

FOR WARREN L. MOODY III, M.D.

DATED: 2/13/09

Warren L. Moody III, M.D.
Warren L. Moody III, M.D.

DATED: 2/27/09

Olson, Jantsch & Bakker, P.A.
Daniel P. Jantsch
Daniel P. Jantsch, Esq.
Attorney for Warren L. Moody III, M.D.

EXHIBIT A

1 DIANE J. HUMETEWA
United States Attorney
District of Arizona

2 ROBERT K. LU
3 Assistant U.S. Attorney
Two Renaissance Square
4 40 North Central Avenue, Suite 1200
Phoenix, Arizona 85004-4408
Telephone: (602) 514-7500
5 Facsimile: (602) 514-7760
E-Mail: robert.lu@usdoj.gov

6 Attorneys for Plaintiff United States of America

7 UNITED STATES DISTRICT COURT
8 DISTRICT OF ARIZONA

9 United States of America,

10 Plaintiff,

11 v.

12 Warren L. Moody III,

13 Defendant.
14

NO. _____

STIPULATION FOR ENTRY OF
CONSENT JUDGMENT

15
16 The United States of America ("United States") and Defendant Warren L. Moody III
17 ("Defendant") hereby stipulate and agree as follows:

18 1. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C.
19 § 1345.

20 2. The Court has personal jurisdiction over Defendant.

21 3. Defendant acknowledges the right to be represented by an attorney in this action,
22 and acknowledges that he is represented by an attorney.

23 4. Defendant consents to entry of judgment in this case in the amount of \$80,000,
24 together with post-judgment interest (the "judgment amount").

25 5. Defendant understands that by consenting to judgment, Defendant waives the right
26 to a trial in this action.

27 6. Defendant acknowledges that he enters into this Stipulation pursuant to a settlement
28 agreement between the United States and Defendant whereby Defendant agreed to pay a

1 settlement amount to the United States by August 3, 2009. Pursuant to the same settlement
2 agreement, Defendant also agreed that in the event he failed to pay the full and complete
3 settlement amount by August 3, 2009, the United States could, without notice, file a complaint
4 against Defendant in the United States District Court, file this Stipulation for Entry of Consent
5 Judgment, and seek entry of a consent judgment against Defendant.
6

7 DATED: 2/13/09, 2009.

8 DIANE J. HUMETEWA
9 United States Attorney
District of Arizona

10 Warren L. Moody III M.D.
11 WARREN L. MOODY III, M.D.
12

ROBERT K. LU
Assistant U.S. Attorney

13 Daniel P. Jantsch
14 DANIEL P. JANTSCH, ESQ.
15 Counsel for Defendant Warren L. Moody III
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT B

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

United States of America,
Plaintiff,
v.
Warren L. Moody III,
Defendant.

No. _____

CONSENT JUDGMENT

This matter having come before the Court on the Stipulation for Consent Judgment executed and filed by the parties. The Court finding that it has jurisdiction over the subject matter and the parties, and that the allegations of the Complaint and the Stipulation for Consent Judgment are well taken;

IT IS HEREBY ORDERED that judgment is entered in favor of the United States, and against Defendant, Warren L. Moody III, in the amount of \$80,000, together with post-judgment interest.